



# CITY OF MILWAUKIE

## AGENDA

October 17, 2019  
(rescheduled from October 7)

### DESIGN AND LANDMARKS COMMITTEE

Milwaukie City Hall  
10722 SE Main St  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

**1.0 Call to Order — Procedural Matters**

**2.0 Meeting Notes – Motion Needed**

2.1 September 3, 2019

**3.0 Information Items**

3.1 Introduction of new committee members

**4.0 Audience Participation —** This is an opportunity for the public to comment on any item not on the agenda

**5.0 Public Meetings — None**

**6.0 Worksession Items**

6.1 Summary: Downtown design review process (continued)  
Staff Person: Brett Kelter, Associate Planner

**7.0 Other Business/Updates**

7.1 Summary: Discuss 2019-20 Work Program draft  
Staff Person: Brett Kelter, Associate Planner

**8.0 Design and Landmarks Committee Discussion Items —** This is an opportunity for comment or discussion for items not on the agenda.

**9.0 Forecast for Future Meetings:**

Nov. 4, 2019	Downtown design review update (regular meeting)
Dec. 2, 2019	Downtown design review update (regular meeting)
Dec. 3, 2019	Annual joint meeting with City Council

### Milwaukie Design and Landmarks Committee Statement

The Design and Landmarks Committee is established to advise the Planning Commission on historic preservation activities, compliance with applicable design guidelines, and to review and recommend appropriate design guidelines and design review processes and procedures to the Planning Commission and City Council.

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Thank You.
2. **DESIGN AND LANDMARKS COMMITTEE MEETING MINUTES.** Approved DLC Minutes can be found on the City website at [www.milwaukieoregon.gov](http://www.milwaukieoregon.gov).
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at [www.milwaukieoregon.gov](http://www.milwaukieoregon.gov).
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.

#### Public Meeting Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Committee members.

1. **STAFF REPORT.** Each design review meeting starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommendation with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Committee was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMITTEE MEMBERS.** The committee members will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the Committee will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC MEETING.** The Chairperson will close the public portion of the meeting. The Committee will then enter into deliberation. From this point in the meeting the Committee will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMITTEE DISCUSSION AND ACTION.** It is the Committee's intention to make a recommendation this evening on each issue on the agenda. Design and Landmarks Committee recommendations are not appealable.
11. **MEETING CONTINUANCE.** Prior to the close of the first public meeting, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Design and Landmarks Committee will either continue the public meeting to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony.

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.*

#### **Milwaukie Design and Landmarks Committee:**

Cynthia Schuster, Chair  
Brett Laurila, Vice Chair  
Mary Neustadter  
Evan Smiley  
Tracy Orvis

#### **Planning Department Staff:**

Denny Egner, Planning Director  
David Levitan, Senior Planner  
Brett Kelter, Associate Planner  
Vera Kolias, Associate Planner  
Mary Heberling, Assistant Planner  
Tempest Blanchard, Administrative Specialist II

**CITY OF MILWAUKIE  
DESIGN AND LANDMARKS COMMITTEE  
NOTES**

**Pond House  
2215 SE Harrison St  
Tuesday, September 3, 2019  
6:30 PM**

**COMMITTEE MEMBERS PRESENT**

Cynthia Schuster, Chair  
Brett Laurila, Vice Chair  
Mary Neustadter  
Tracy Orvis

**STAFF PRESENT**

Brett Kelter, Associate Planner (staff liaison)

**OTHERS PRESENT**

(none)

**MEMBERS ABSENT**

Evan Smiley

**1.0 Call to Order – Procedural Matters**

**Chair Cynthia Schuster** called the meeting to order at 6:33 p.m.

**2.0 Design and Landmarks Committee Notes**

2.1 August 5, 2019

**Chair Schuster** called for any revisions to the August meeting notes; there were none, and the notes were approved unanimously.

**3.0 Information Items**

**Associate Planner Brett Kelter** distributed update pages for the members' reference notebooks.

3.1 Introduction of new committee members  
Staff Person: Brett Kelter, Associate Planner

Given that new members were appointed to the committee since the last meeting, **Mr. Kelter** started a quick round of introductions. Each person gave their name and shared a little bit of information about their background and how long they had been on the committee. **Mr. Kelter** noted that the introductions could be repeated at the next meeting when new member Evan Smiley was able to attend.

**4.0 Audience Participation – None**

**5.0 Public Meetings – None**

**6.0 Worksession Items**

6.1 Downtown design review process (continued)  
Staff Person: Brett Kelter, Associate Planner

**Mr. Kelter** gave a quick recap of the group's effort to update the downtown design review process, from the origins of the project to its current state. The discussion then picked up with a revisiting of Design Element C (Exterior Building Materials). **Chair Schuster** had several suggestions for revisions to the text of the standards, including reorganization into upper-level and ground-floor categories, with a separate grouping of standards to deal with renovation of

existing buildings. She reiterated her interest in ensuring there is some discretion in approving specific materials not found in the main table, noting that several other jurisdictions provide for some discretion on materials by the Planning Director or a similar figure.

Regarding the guidance provided for exterior building materials, **Chair Schuster** suggested that the current language is too loose and not as helpful as it could be. Point 1 could be improved with some of the language she included in the materials she shared with the group at the last couple of meetings. She thought Points 2 and 3 were not helpful at all and could be deleted; similarly, Point 4 seemed more relevant to the element related to building façade (Design Element B) and could be deleted. Point 5 was relevant but needed improvement. Again, she suggested that the guidance could be reorganized to address issues involved with upper levels, ground floors, and renovation of existing buildings.

Shifting to Design Element E (Doors and Entrance Locations), **Committee Member Brett Laurila** noted that he had sketches of the eroded corner concept that he could share with the group by sending them later. **Chair Schuster** reminded the group that the current zoning code effectively allows residential-only buildings only in the northern part of downtown.

Looking at the standards for this element, the group agreed that Standard 1 (requiring nonresidential doors to remain unlocked during business hours) was less a design standard and more of a performance requirement that may already be covered by the building code. It was recommended for deletion.

Regarding Standard 2 (about primary entrances for buildings with multiple street frontages), there was some discussion about definitions of the terms “transit street” and “primary entrance,” with a reminder that the group had previously marked up a map of main streets and transit streets that might be useful to revisit. A “primary entrance” was understood to be a business entrance or a residential building lobby. There was a suggestion to specify Main St as the dominant street for locating a primary entrance when a building has frontage on multiple streets.

There was a request to clarify the language of Standard 3 (requiring a primary entrance to face the street) and a suggestion to move it in front of Standard 2. In addition, there was a suggestion to delete the second half of the standard, which allows the entrance to be turned more than 45 degrees from the street if a pedestrian walkway is provided. The group did not envision many scenarios where a building entrance would need to be turned so far from the street and did not see the need for that part of the standard.

Standard 4 (allowing multi-building developments to orient some building entrances to a plaza or courtyard) was deemed to be fine as-is and did not need additional clarification.

The group suggested that Standard 5 (regarding entrance-orientation to Main St) could be combined with Standard 2 to establish a hierarchy of streets, with Main St at the top.

For Standard 6 (doors onto porches or decks), the group suggested specifying that this standard applies only to residential uses (“Residential doors may be elevated . . .”). Other suggestions included striking the words “deck” and “other residential entryway element” and adding “raised patio” instead.

Within the guidance section for this element, there was a suggestion to re-order Point 1 by moving 1-C ahead of 1-B. Point 2 should be renamed “Entrance Prominence” (from “Entryway Prominence”) to match the content of the sub-points. Point 2-D should be revised to read, “Entryways can incorporate large, glazed sectional doors” and should be moved into Point 3 since it deals with materials and details.

Point 3-A should be revised to read more like, “Storefront doors and window systems with a high percentage of glazing are strongly encouraged.” The word “cover” can be deleted from

Point 3-B, as weather protection is addressed in another element. Point 3-D duplicates the massing element (Design Element H) and can be deleted.

The group thought it might be good (however potentially difficult) to develop some design standards based on the materiality suggestions in Points 3 and 4. In particular, **Chair Schuster** suggested making standards that provide material requirements for different types of doors.

The group agreed to stop its work on this topic for the evening and pick up with Design Element F (Windows) at the next meeting. **Mr. Kelter** agreed to pull together a revised version of at least Design Element G (Corners) for the group to work on then as well.

## **7.0 Other Business/Updates**

- 7.1 Discuss 2019-20 Work Program draft  
Staff Person: Brett Kelter, Associate Planner

**Mr. Kelter** referred to the draft of the 2019-20 work program he had included in the meeting packet and walked through the various categories of items. None of the members had been able to review the document beforehand in much detail, and the group agreed to revisit it at the next meeting. **Mr. Kelter** agreed to re-send a PDF version to the group in the meantime.

## **8.0 Design and Landmarks Committee Discussion Items – None**

## **9.0 Forecast for Future Meetings**

**Mr. Kelter** noted that it was almost time for the group's annual joint meeting with the City Council. Currently, the tentative date for that meeting is Tuesday, November 5, with a likely start time around 4:30 p.m. during the Council's usual worksession time. **Mr. Kelter** agreed to confirm that date and time and report back to the group at the next meeting.

- |                  |  |
|------------------|--|
| October 7, 2019  | Regular meeting                                    |
| November 4, 2019 | Regular meeting                                    |
| November 5, 2019 | Annual joint meeting with City Council (tentative) |

**Chair Schuster** adjourned the meeting at 8:28 p.m.

Respectfully submitted,  
Brett Kelter, Associate Planner

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Cynthia Schuster, Chair



# CITY OF MILWAUKIE

**To:** Design and Landmarks Committee

**Through:** Dennis Egner, Planning Director

**From:** Brett Kelter, Associate Planner

**Date:** October 17, 2019

**Subject:** Worksession Items

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**BACKGROUND:** Downtown design review process (continued)

This draft includes select parts of the review draft, related to the items to be discussed at the October meeting.

## Downtown Design Review

MMC Subsection 19.508.4 (Building Design)

### List of Design Elements

#### Original

- A. Site Frontage
- B. Wall Structure & Building Façade Detail
- C. Exterior Building Materials
- D. Façade Transparency
- E. Doors & Entrance Locations
- F. Windows
- G. Corners
- H. Building Massing
- I. Weather Protection
- J. Roof Screening
- K. Service Areas (Screening)
- L. Green Architecture
- M. Pedestrian Circulation
- N. Private Open Space
- O. Pedestrian-Oriented Open Space
- P. Landscaping
- Q. Outdoor & Exterior Building Lighting

#### Revised (draft proposal)

- A. Site Frontage
- B. Pedestrian Circulation
- C. Pedestrian-Oriented Open Space
- D. Landscaping
- E. Private Open Space
- F. Building Massing
- G. Wall Structure & Building Façade Detail
- H. Façade Transparency
- I. Corners
- J. Windows
- K. Doors & Entrance Locations
- L. Roof Screening
- M. Weather Protection
- N. Green Architecture
- O. Outdoor & Exterior Building Lighting
- P. Exterior Building Materials
- Q. Service Areas (Screening)

#### Elements Recommended for Deletion

- 1. Rooftops
- 2. Ground-level Screening
- 3. Vehicle Parking
- 4. Long-term Bicycle Parking
- 5. Waste Collection Areas
- 6. Privacy Considerations / Transition Measures
- 7. Safety & Building Security
- 8. Public Open Space
- 9. Outdoor Lighting
- 10. Parking Lot Lighting
- 11. Landscape Lighting

## Downtown Design Review

MMC Subsection 19.508.4 (Building Design)

### Element E – Doors & Entrance Locations

#### Purpose/Intent

To create pedestrian-friendly development by providing building entrances that are oriented to the sidewalk or other public space and connected with clearly-marked pedestrian walkways.

#### Design Standards

1. ~~Doors and/or primary entrances must be unlocked when the business located on the premises is open. Doors and entrances to residential units may be locked.~~
2. All new buildings shall have at least one primary entrance facing an abutting street (i.e., within 45° of the street property line) ~~or, if the building entrance must be turned more than 45° from the street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk.~~
3. When a building abuts more than one street and one of the streets is a transit street, the primary entrance must be oriented to the transit street. If both streets are transit streets, the primary entrance must be oriented to the street with higher-quality transit service or to the transit streets' common corner, if applicable. If a development is on the corner of Main St and another street, the primary entrance shall be oriented toward Main St. If the development is on the corner of McLoughlin Blvd and another street, the primary entrance may be oriented toward either street.
4. Where a development contains multiple buildings and there is insufficient street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to a plaza, courtyard, or similar pedestrian space containing pedestrian amenities. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway.
5. ~~If a development is on the corner of Main St and another street, the primary entrance shall be oriented toward Main St. If the development is on the corner of McLoughlin Blvd and another street, the primary entrance may be oriented toward either street.~~
6. Residential doors may be elevated from sidewalk grade no more than 3 ft by use of a porch, deck, stoop, or ~~other residential entryway element~~ raised patio.
7. Refer to the accompanying standards for **Element D** (Façade Transparency) for door and window coverage standards.

*[Suggestion to develop some standards about materiality, based on Guidance points 3 and 4.]*

#### Guidance

1. Entryway Locations



- A. Primary building doors should be at or near Main St or a transit street whenever possible.
  - B. Entryways should be accessed from streets or courtyards whenever possible. Avoid entryways directly from parking lots and service areas.
  - C. Avoid obstructing entryways with columns, walls, fencing, utility boxes, or unusually recessed or projecting building wall details.
2. ~~Entryway~~ Entrance Prominence
- A. New development should create “eyes on the street” — active uses in which residents, employees, and visitors can deter criminal activity, providing self-policing through observation.
  - B. Use building wall lighting to emphasize entrances.
  - C. Building entries should be clearly defined and demarcated as architectural features.
  - ~~D. Entryways can use large sliding or roll-up doors that help blend indoor and outdoor space activities.~~
3. Entryway Materials and Details
- A. Storefront doors and window systems with a high percentage of glazing are strongly encouraged, especially in commercial and public building entryways.
  - B. Include creative uses of scale, materials, glazing, and projecting or recessed forms, architectural details, and color, ~~and cover~~ in entryway areas.
  - C. Integration of natural elements to set an entry apart.
  - ~~D. Combine doors with roof or façade architectural elements such as bays or towers.~~
  - E. Double doors are encouraged whenever possible for commercial and public use buildings.
  - F. Doors should be designed so as not to sit flush with the building façade.
  - G. Entryways can incorporate large glazed sectional doors that help blend indoor and outdoor space activities.
4. Residential Doors
- A. Residential doors should be substantial enough to suggest privacy yet still express a welcoming sense of friendly contact for those who approach and enter.
  - B. The design of a door should respond to its context, to the amount of street activity that surrounds it. Where a door faces a very active street, it is appropriate to separate the door from the street by a comfortable change of grade. For less active areas, transition areas may include porches.
  - C. Entryways should make use of porches, terraces, stoops, or covered landings to help demark and add prominence to the location.

- D. Solid wood core doors, sidelights, and transom windows add welcome detail to residential entryways while maintaining occupant privacy.

### Notes on Figures

- Keep graphic on primary entrance standards (19.304.5.F.2)

DRAFT

## Downtown Design Review

MMC Subsection 19.508.4 (Building Design)

### Element F – Windows

#### Purpose/Intent

To create a welcoming pedestrian environment and enhance street safety by developing visually interesting exterior façades, allowing for daylighting of interior spaces, and creating visual connections between interior and exterior spaces.

#### Design Standards

##### 1. General Standards

- A. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating exterior trim of at least 4-in reveal and of a contrasting material or color.
- B. Signs are limited to a maximum coverage of 20% of the required window area.
- C. Refer to **Element D** (Façade Transparency) for door and window coverage standards.

##### 2. Nonresidential Ground-Floor Windows

- A. Ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.
- B. Where a grade elevation change does not dictate otherwise, the bottom edge of windows along pedestrian ways shall be constructed no less than 12 in and no more than 30 in above the abutting walkway surface. *[Add language to allow a break from the requirement where grade changes impact the situation.]*
- C. *[Note that this is probably better as a development standard, not a design standard – remove?]*  
No more than 60% of window areas *[individual windows, not the collective]* shall be covered by any combination of interior furnishings, including, but not limited to, curtains, shades, or signs. Product displays do not constitute interior furnishings. *[This second phrase would mean that shelves for product displays are allowed. There is some disagreement with staff about whether product displays should count as interior furnishings. Consider adding language about transparency, about permanent versus temporary coverage, and to make a distinction between shelves & displays and curtains & shades. Consider integrating CPTED (Crime Prevention Through Environmental Design) standards, such as for the window coverage issue. Specify whether exterior features (like security bars) are not counted against the coverage standard.]*

##### 3. Prohibited Window Elements

For all building windows facing streets, courtyards, and/or public squares in Downtown, the following window elements are prohibited:

- A. Reflective, tinted *[needs clarification – what about high efficiency tinting?]*, mirrored, or opaque glazing.

- B. Simulated divisions (internal or applied synthetic materials).
- C. Exposed, unpainted metal frame windows.

### Guidance

1. Retail and commercial uses should provide windows that add activity and variety at the street level, inviting pedestrians in and providing views both in and out, maintaining transparency and visibility regardless of the time of day.
2. Ground-floor windows for nonresidential buildings should allow views into storefronts, working areas, or lobbies.
3. Operable, opening windows at restaurants, shops, and other retail businesses help blend indoor and outdoor spaces and attract customers and sidewalk activity.
4. Ensure that the building is visible to the interior by limiting the use of shades, curtains, security fencing, and product shelving at windows and near the inside of window and door areas on the ground level.
5. Transom, sidelight, and other window combinations should be used to increase transparency and add architectural detail to the building. *[Should this be in Façade Transparency?]*
6. Use large, operable sliding, pivoting, or articulating windows to connect indoor and outdoor spaces.
7. Bay and projecting windows on residential buildings add interest to the façade and expand views out of living units.
8. Use window materials that contrast but complement other primary wall and surface materials.

### Notes on Figures

- Keep graphic on windows and doors (19.508.4.E)

## Downtown Design Review

MMC Subsection 19.508.4 (Building Design)

### Element G – Corners

#### Purpose/Intent

To create a strong architectural statement at street corners, provide opportunities for pedestrian-scale activity, establish visual landmarks, and enhance visual variety.

#### Design Standards

##### 1. Nonresidential or Mixed-Use Buildings

Nonresidential or mixed-use buildings at the corner of two public streets—or at the corner of a street and a public area, park, or plaza—shall incorporate two of the following features (note: for the purposes of this standard an alley is not considered a public street):

- A. The primary entry to the building located within 5 ft of the corner. *[There was an earlier suggestion to move this standard to Element E (Doors & Entrance Locations), but it actually seems ok here as an option for meeting this standard, when a corner is in play.]*
- B. Active space(s) or use(s) near the corner.
- C. A prominent architectural element, such as increased building height or massing, building material change, or a pedestrian canopy or marquis at the corner of the building or within 20 ft of the corner of the building.
- D. The corner of the building cut at a 45° angle or a similar dimension “rounded” corner.
- E. A combination of special paving materials, street furnishings, and (where appropriate) plantings. *[Is this specific enough to be a standard? Do you have to do all 3? What is the clear & objective standard for determining whether plantings are appropriate?]*

#### Guidance

1. In order to highlight and make prominent any building corners, a change in building material, window coverage pattern, chamfered corner, building height, or façade articulation could be used to add architectural distinction.
2. Use special paving materials and plazas for pedestrian emphasis.

#### Notes on Figures

- Make the image larger and clearer.
- For purposes of the illustration, the door should swing out.

## Milwaukie Design and Landmarks Committee

### 2019-20 WORK PROGRAM

*To be Confirmed by City Council on December 3, 2019*

#### Accomplishments of 2018-19

Between November 2018 and September 2019, the Design and Landmarks Committee (DLC) met 13 times, including 2 special meetings outside the Committee's regular monthly schedule.

The DLC membership fluctuated again during the year, with Chair Lauren Loosveldt stepping down in April 2019 to take a position on the Planning Commission and Kyle Simukka resigning in May 2019 to move out of the area. In April 2019, Cynthia Schuster was elected as Chair and Brett Laurila was elected as Vice Chair. Two new members (Tracy Orvis and Evan Smiley) were appointed in August 2019 to fill the vacant seats.

Public meetings for recommendations on land use applications:

- **March 2019** = Preliminary review of Coho Point design
- **May 2019** = Design review for height variance request for Monroe Street Apartments at 37<sup>th</sup> Ave & Monroe St (land use file #VR-2019-003)

The DLC also reviewed and provided comments on draft policies for Historic Preservation and Urban Design as part of the Comprehensive Plan Update process.

Throughout the year, the DLC continued its work to update the Downtown Design Guidelines, reviewing the draft language for a revised framework of design elements. The DLC has been making edits and identifying issues that need further discussion.

#### Work Program for 2019-20

##### Downtown Design Review Update

The Downtown Design Review update continues to be the DLC's focus for the coming year, with the following tasks and deliverables:

- Complete review of revised draft of Design Review document (late 2019)
- Develop revised code language, including applicability and process, as well as revised diagrams and graphics (late 2019/early 2020)
- Provide commentary document to explain proposed changes
- Present draft documents to Planning Commission and City Council in worksession settings and solicit feedback (early 2020)
- Revise draft as necessary in preparation for code amendment process

### Other Tasks

In addition, the DLC continues to be prepared to respond as needed for review of the following types of applications:

- Downtown Design Review. For development proposals in Downtown zones, conduct public design review meetings to advise the Planning Commission on implementation of the Downtown Design Guidelines.
- Post-Decision Limited Design Review. Conduct design review meetings on development proposals when the Planning Commission has made design review a condition of approval or to assist with other City projects.
- Historic Resources Review. Review Historic Landmark alteration or demolition requests and advise the Planning Commission on applications when City approval is required by the Milwaukie Municipal Code (MMC).

### “Parking Lot” Items

There are several topics and tasks that the DLC would like to work on but may not have time for in 2019-20. Those items are captured in a “parking lot” of ideas for future activity:

1. Historic Preservation
  - a. Update the City’s inventory of Historic Resources.
  - b. Update code language for the Historic Preservation Overlay Zone (MMC Section 19.403) to clarify and strengthen the City’s protections for designated historic resources.
2. Development of Opportunity Sites

As opportunities present themselves, participate in the City’s development of its various “opportunity sites,” including Block 14 on Main St between Harrison St and Jackson St, as well as the Coho Point site at Washington St and McLoughlin Blvd.
3. Take advantage of relevant training opportunities as they arise.